

2009-4245

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WP0186

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re: :
Christopher Cioffi : CASE NO. 09-44831-RG
Gladys Cioffi aka Gladys Amsat aka Gladys :
Asmat : CHAPTER: 13
:
Debtor(s) : HEARING: June 7, 2010
:

CERTIFICATION IN OPPOSITION TO DEBTORS'
MOTION TO RECLASSIFY CLAIM AS PARTIALLY UNSECURED

William M. E. Powers III, hereby certifies:

1. I am the attorney responsible for the management of the above entitled matter on behalf of SunTrust Mortgage, Inc. ("SunTrust") and have knowledge of the facts contained herein.
2. SunTrust is the holder of a mortgage serviced by SunTrust and secured by the real estate titled in the name of Gladys Amsat and commonly known as 83 Butler Street, Paterson City, New Jersey 07524 ("Property"). Copies of the Note and Mortgage are attached hereto as Exhibit "A."

3. Christopher Cioffi and Gladys Cioffi a/k/a Gladys Amsat a/k/a Gladys Asmat, (“Debtors”) filed a voluntary Chapter 13 bankruptcy petition on December 28, 2009 listing SunTrust’s mortgage as a secured claim.
4. SunTrust filed an Amended Proof of Claim on April 29, 2010 setting forth a secured claim amount of \$300,860.19. A copy of the Amended Proof of Claim is attached hereto as Exhibit “B.”
5. Debtors filed the instant motion seeking to reclassify SunTrust’s claim as partially unsecured thereby reducing SunTrust’s secured claim to \$140,000.00, and classifying the balance of \$162,285.19 as unsecured.
6. Debtors’ support for this cramdown of Suntrust’s secured claim is an appraisal valuing the Property at \$140,000.00 as of January 20, 2010.
7. SunTrust received a copy of Debtors’ appraisal, filed together with the instant motion, on April 23, 2010.
8. The debtors are in possession of the subject property, and therefore, SunTrust has not entered upon the lands and been given an opportunity to inspect the property for appraisal purposes. SunTrust seeks permission and interior access to have a real estate appraiser examine and evaluate the property for appraisal purposes.
9. The Debtors’ motions is effectively seeking to value this asset at 50% of the unpaid principal balance borrowed by Gladys Amsat on February 14, 2008.
10. Upon information and belief, SunTrust believes that the debtors’ appraisal significantly underestimates the actual value of the asset. However, it is not in a position to provide expert testimony in defense of its claim until it has been provided

an opportunity to have the property inspected and appraised by a licensed appraiser who can appropriately determine the property's value.

11. Based on the foregoing, SunTrust respectfully requests this Court to deny Debtors' Motion to Reclassify SunTrust's Claim as Partially Unsecured until such time as SunTrust is given an opportunity to have the property appraised, file the appraisal report and, if appropriate, offer expert testimony in support of its claim.
12. I certify the above facts to be true. I am aware that if the above facts are willfully false, I am subject to punishment.

/s/ William M. E. Powers III
William M. E. Powers III

DATED: May 27, 2010